

REMARKS

Claims 1, 3 and 4 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claims 2 and 5 have been rejected as being anticipated under 35 U.S.C. 102(e) by *Flickner* (U.S. Pat. Pub. No. 2001/0037512). Claims 2 and 5 have been rejected as being anticipated under 35 U.S.C. 103(a) by *Sutton* (U.S. Pat. No. 5,968,118) in further view of *Klein* (U.S. Pat. No. 6,637,030). Applicant respectfully traverses these rejections and/or deems them overcome for at least the following reasons. Reconsideration of this application is thus respectfully requested.

Rejection based on 35 U.S.C. § 112, first paragraph

Claims 1, 3 and 4 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicant respectfully traverses this rejection for at least the following reasons.

Rejections based on the first paragraph of 35 U.S.C. 112 for failing to comply with the written description requirement are appropriate when there is a difference in the definition of the claimed subject matter and the subject matter described in the specification. *In re Higbee*, 527 F.2d 1405 (CCPA 1976). Further, this rejection is appropriate when the claimed subject matter was not described in the specification in such a way as to reasonably convey the invention to one skilled in the art. *MPEP* § 706.03(c).

Applicant respectfully submits that the amendments of Claims 1, 3 and 4 made previously satisfy § 112 in so far as similar amendments were made to Claims 2 and 5, and those amendments to claims 2 and 5 have been accepted as obviating a 112 rejection. Claims 2 and 5 are directed, at least in part, to the demodulating of signals in a signal distribution system, while Claims 1, 3 and 4 are directed, at least in part, to modulating, or both modulating and demodulating, signals. In this regard, Applicant respectfully submits that the modulation of signals in a system is taught at least by teaching the demodulation of signals in the same system. One skilled in the pertinent art necessarily receives the knowledge of how to modulate signals from a thorough discussion and understanding of how signals are demodulated. The electrical arts of modulating and demodulating are not unpredictable arts.

Further, in a previous response Applicant directed the attention of the Examiner to certain portions of the specification for providing support for the amendments made. Applicant respectfully submits that those portions of the specification relied upon do in fact teach the modulating and demodulating of previously presented Claims 1, 3 and 4. Support for the previously presented Amendment may be found in the detailed description at least with respect to the discussion of Figure 3 and in Figure 3.

Accordingly, Applicant respectfully submits that Claims 1, 3 and 4 do meet the requirements of § 112 and particularly meet the requirements of the first paragraph of § 112.

Wherefore, Applicant respectfully submits the requirements of § 112 having been met by Claims 1, 3 and 4, submits that this rejection is overcome. Accordingly,

Applicant respectfully requests reconsideration and removal of at least this rejection to Claims 1, 3 and 4.

Rejection based on 35 U.S.C. § 102 (e)

Claims 2 and 5 have been rejected as being anticipated under 35 U.S.C. 102(e) by *Flickner* (U.S. Pat. Pub. No. 2001/0037512). Applicant respectfully traverses this rejection for at least the following reasons.

Anticipation under 35 U.S.C. § 102 requires the cited art teach every aspect of the claimed invention. See, *M.P.E.P. §706.02(a)*. In other words, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See, *M.P.E.P. §2131 citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Rejection with respect to Claim 2

Claim 2 recites, in part,

at least one intelligent device for demodulating single frequency carrier RF signals off of said wideband signal distribution system, wherein said single frequency RF signals comprise IP digital information, said at least one intelligent device including an RF splitter suitable for receiving said modulated single frequency RF signal into at least an IP signal portion and the non-IP RF modulated signal, and at least one demodulator electrically connected

to said RF splitter and suitable for demodulating at least the IP signal portion split by said RF splitter. [Emphasis Added]

Applicant respectfully submits that Flickner fails to teach at least signal processing with respect to IP digital information. The present office action cites to paragraph 33 for this teaching. Paragraph 33 in fact sets forth “integrating DOCSIS and Open Cable functionality”. DOCSIS as is known to those possessing an ordinary skill in the pertinent arts is directed to a protocol for the distribution of cable television signals. Cable television signals are not IP (internet protocol) signals. The Open Cable system is directed to cable television and was developed by Cable Television Labs, Inc. Cable television is also not distributed using IP signals.

IP signals according to the art and as used in the present invention are designed to allow a packet to be addressed and distributed to a system without a direct link between the provider and the recipient. Cable television signals, on the contrary, require a direct link between provider and recipient, and any breakage in such a link causes the destruction of an ability to reassemble the desired signal at the recipient point. As such, the Flickner system is, in fact, inoperable for the passing of IP signals as is taught and claimed in the instant application.

Accordingly, Applicant respectfully submits at least those portions of the Flickner reference cited in this and the previous Office Action fail to teach, or suggest, that an IP signal is distributed, at least because Flickner explicitly teaches the use of DOCSIS and Open Cable, for example.

Wherefore, Applicant respectfully submits the cited reference fails to teach or suggest at least each of the limitations of Claim 2, and hence fails to anticipate it.

Accordingly, Applicant respectfully requests reconsideration and removal of at least this rejection to Claim 2.

Rejection with respect to Claim 5

Applicant respectfully submits that Claim 5 includes the IP signal portion discussed hereinabove with respect to Claim 2. Applicant further respectfully submits that at least those portions of the Flickner reference cited in this and the previous Office Action fail to teach, or suggest, that an IP signal is distributed, at least because Flickner explicitly teaches the use of DOCSIS and Open Cable, for example, as set forth with respect to Claim 2.

Wherefore, Applicant respectfully submits the cited reference fails to teach or suggest at least each of the limitations of amended Claim 5, and hence fails to anticipate it. Accordingly, Applicant respectfully requests reconsideration and removal of at least this rejection to Claim 5 as well.

Rejection based on 35 U.S.C. § 103 (a)

Claims 2 and 5 have been rejected as being anticipated under 35 U.S.C. 103(a) by *Sutton* (U.S. Pat. No. 5,968,118) in further view of *Klein* (U.S. Pat. No. 6,637,030). Applicant respectfully traverses this rejection for at least the following reasons.

35 U.S.C. §103(a) recites:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). *MPEP 706.02(j)*.

Applicant respectfully submits that there is no motivation or teaching to combine the teachings of Sutton and Klein. The Examiner correctly recites that the Sutton reference is "silent as to the operation of the modulators and demodulators within the disclosed information outlet." *Office Action* at 6. Applicant respectfully submits that Sutton is designed to accomplish the wiring and data communication without modification of the signals. Instead Sutton is designed to place the signals directly onto the pre-run cables. *See Sutton generally*. The only modification of the signals contemplated in Sutton is compression, such as by MPEG. *Sutton, Col. 3*. The system

of Sutton was designed to free bandwidth and for modulation onto RF signals but is not accomplished by, nor does Sutton contemplate, modulating and demodulating. Instead, Sutton is designed to get signals where they otherwise would be difficult to reach. Sutton contemplates, as an example, a ship whereon a single coax is run to the cabins and whereon there is a desire to pass additional signals without running additional cables. Sutton achieves this by combining signals on the same coax cable. Sutton does not deal with signals that have a predetermined destination or are coded with an address. Sutton is not directed toward broadband communications.

Klein, on the other hand, is directed toward broadband communication and contemplates a different mechanism to achieve additional signal routing. The present office action attempts to combine two methods of bandwidth control, but there exists no motivation, suggestion, or teaching to make such a combination. In fact, the combination of the teachings of Klein and Sutton would make each redundant, as each intends to accomplish the same goal in different ways. In other words, Sutton accomplishes bandwidth reduction using a series of steps, and one skilled in the art would not be motivated to add unnecessary steps from Klein to obtain the same result that would be obtained by Sutton alone. Such a combination would thus be inefficient and hence undesirable. As such, Applicant submits there is no motivation to combine Sutton and Klein.

CONCLUSION

In summation, Applicant respectfully submits that all of the claims presently appearing in this application are in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or other matters whose resolution may be advanced by a telephone call, the Examiner is cordially invited to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,



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